

REMARKS

I. Introduction

Claims **19-21** and **37-40** are currently pending in the present application. Claims **19, 20** and **37** are independent. All claims stand rejected. In particular, all claims (claims **19-21** and **37-40**) *remain* rejected (despite prosecution having been reopened after Pre-Appeal Brief Review) under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent No. 6,006,257 (hereinafter "Slezak").

Upon entry of this amendment, which is respectfully requested, claims **19-21** will be cancelled without prejudice or disclaimer, claims and **37-40** will be amended to advance prosecution by incorporating suggestions made by the Examiner, and new claims **41-86** will be added. No new matter is believed to be introduced by this amendment.

Applicants hereby respectfully request reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

II. Notice of Non-Compliant Amendment / Restriction

Initially, Applicants note that the Examiner's premise for labeling Applicants' previous response "Non-Compliant" is based entirely upon an *unsupported* allegation by the Examiner that all newly submitted claims are independent or distinct from currently pending claims. Applicants respectfully note that the Examiner has utterly failed to establish a *prima facie* case for restriction, as is required for *all* restriction requirements. Accordingly, should the Examiner desire to maintain and/or re-instate the allegation of independence or distinctness, Applicants formally request that some reasoning be set forth that may allow Applicants to formulate a response thereto. Applicants further note that even if all new claims were independent or distinct from currently pending claims, the Examiner still must set forth reasons why examining such claims would constitute a burden necessitating restriction.

III. Interview

Applicants thank Primary Examiner Tran for speaking with Applicants' representative on July 3, 2006. Applicants note that while no agreement was reached during the interview, a better understanding of the Examiner's interpretation of the cited reference was revealed. At least because Applicants strongly disagree with the Examiner's interpretation of both the cited reference and the pending claims, new claims are presented herein solely to advance prosecution. Any subject matter and/or any original claim not currently being pursued is intended to be pursued in one or more continuing applications.

IV. Claim Rejections under §103(a) – Slezak

All pending claims (claims **19-21** and **37-40**) stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Slezak. This ground for rejection is moot with respect to claims **19-21**, as claims **19-21** are cancelled herein. With respect to remaining claims **37-40**, Applicants traverse this ground for rejection as follows.

While Applicants continue to express disagreement with the Examiner's contention that the current claim language reads on the advertisement described in Slezak, Applicants nonetheless amend claims **37-40** herein solely to advance prosecution. In other words, despite the fact that the use of the 'truck' in Slezak as a trigger for an advertisement is not equivalent to *how the 'truck' is used in the entertainment program*, Applicants amend claims **37-40** herein to make explicitly clear that it is the **use of the product (e.g., 'truck') in a scene or plot** of the entertainment program that is associated with the claimed limitation.

At least because Slezak fails to teach or suggest or render obvious such a limitation, Applicants respectfully request that this §103(a) ground for rejection of claims **37-40** be withdrawn.

V. New Claims

New claims **41-86** are believed to be patentable over the cited reference. Applicants believe, for example, that the cited reference fails to teach, suggest, or render obvious at least:

(i) *providing a web interface via which a viewer of an entertainment program may purchase a plurality of props used in the entertainment program* (claims **41-52**);

(ii) *receiving, via a web interface and from a viewer, an indication of an entertainment program recording identifier associated with an entertainment program* (claims **53-57**);

(iii) *receiving, from the viewer, an indication of one of the plurality of products that the viewer desires to purchase* (claims **58-69**);

(iv) *receiving, via the web interface and from the viewer, an indication of a product from the entertainment program that the viewer desires to purchase* (claims **70-74**);

(v) *receiving, at the controller and from a viewer of the entertainment program, a purchase request comprising an indication of a subset of the program information and a subset of the product information* (claims **75-81**);

(vi) *reviewing an entertainment program to determine that a product used in the entertainment program will be offered for sale* (claims **82-83**);

(vii) *selling the prop to the one of the plurality of viewers associated with the highest ranked bid* (claims **84-85**); or

(viii) *receiving, from a viewer of an entertainment program, an indication of one of a plurality of products shown in the entertainment program that the viewer desires to purchase, wherein the indication is descriptive of how the one of the plurality of products is used in a plot of the entertainment program* (claim **86**).

VI. Conclusion

At least for the foregoing reasons, it is submitted that all pending claims are now in condition for allowance, *or in better form for appeal*, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Carson C.K. Fincham at telephone number 203-461-7017 or via electronic mail at cfincham@walkerdigital.com, at the Examiner's convenience.

VII. Petition for Extension of Time to Respond

While no fees are believed to be due at this time, please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

Respectfully submitted,

October 12, 2006
Date

/Carson C.K. Fincham, Reg.#54096/
Carson C.K. Fincham
Attorney for Applicants
Registration No. 54,096
Walker Digital, LLC
cfincham@walkerdigital.com
203-461-7017 /voice
203-461-7018 /fax